

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

OF

JAMES M. McDANIEL

OCTOBER 9, 2008



DOCKET NO. 2008-275-C

**APPLICATION OF NEXUS
COMMUNICATIONS INCORPORATED FOR
CERTIFICATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

DIRECT TESTIMONY OF JAMES M. McDANIEL

FOR

THE OFFICE OF REGULATORY STAFF

DOCKET NO. 2008-275-C

**IN RE: APPLICATION OF NEXUS COMMUNICATIONS, INCORPORATED
FOR CERTIFICATE AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
OCCUPATION.**

A. My name is James M. McDaniel, and my business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina Office of Regulatory Staff (“ORS”) as a Program Manager in the Telecommunications Department.

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND
EXPERIENCE.**

A. I received a Bachelor of Science degree in Engineering from the University of South Carolina. I worked for the Public Service of Commission of South Carolina (“Commission” or “PSC”) as an associate engineer and chief of the telecommunications area in the Utilities Department for approximately 28

1 years. In September 2004, I became employed by the Office of Regulatory Staff
2 in the Telecommunications Department as a Program Manager.

3 **Q. HOW LONG HAVE YOU PROVIDED REGULATORY OVERSIGHT TO**
4 **TELECOMMUNICATIONS UTILITIES?**

5 A. I have over 30 years experience in the regulation of the
6 telecommunications industry in South Carolina.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
8 **PROCEEDING?**

9 A. The purpose of my testimony is to set forth the ORS staff findings relative
10 to ORS's review of Nexus Communications, Inc.'s ("Nexus" or "Company")
11 application for Eligible Telecommunications Carrier ("ETC") designation within
12 the State of South Carolina.

13 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**
14 **TESTIMONY?**

15 A. Yes, my testimony details ORS's findings and recommendations.

16 **Q. PLEASE EXPLAIN HOW YOU COMPILED INFORMATION FOR YOUR**
17 **TESTIMONY.**

18 A. I compared the information provided in the company application and
19 direct testimony with the requirements contained in the Commission's regulations
20 pertaining to ETC designation, which became effective on May 23, 2008.

21 **Q. PLEASE PROVIDE AN OVERVIEW OF YOUR REVIEW OF THE**
22 **APPLICATION OF NEXUS COMMUNICATIONS, INC.**

1 A. The application of Nexus was filed with the Commission on July 16, 2008.
2 The ORS review of this application identified that Nexus is seeking ETC
3 designation in South Carolina in the areas served by BellSouth
4 Telecommunications d/b/a AT&T South Carolina. Additionally, Nexus is seeking
5 low income support for the purpose of providing Lifeline and Link Up service to
6 its eligible customers.

7 **Q. IS NEXUS COMMUNICATIONS, INC. REQUESTING ETC**
8 **DESIGNATION FOR THE PURPOSE OF RECEIVING FEDERAL HIGH**
9 **COST UNIVERSAL SERVICE FUND SUPPORT?**

10 A. No. According to its application, Nexus is not seeking high cost support
11 from the federal universal service fund with this filing.

12 **Q. DOES THE APPLICATION FILED BY NEXUS COMMUNICATIONS,**
13 **INC. COMPLY WITH COMMISSION REGULATIONS FOR ETC**
14 **DESIGNATION?**

15 A. No. From my review of this application, it appears that Nexus relied
16 heavily on the requirements of the Federal Communications Commission
17 ("FCC") to support its request for ETC designation. While this practice may
18 have been satisfactory for applications filed prior to the approval by the South
19 Carolina General Assembly of this Commission's ETC designation regulations,
20 these new regulations (26 S.C. Code Regs. 103-690 C (a) (1) (C)) are now in
21 effect and applications for ETC designation filed after May 23, 2008, must also
22 satisfy all Commission requirements.

1 Nexus' application for ETC designation did not contain the following
2 information which is required by 26 S.C. Code Regs. 103-690 C (a) (1):

3 1) Commitment to provide service on a timely basis to requesting
4 customers within the applicant's service area (103-690 C (a) (1)
5 (A)(1));

6 2) A two-year plan describing the carrier's plans for advertising and
7 outreach programs for identifying, qualifying and enrolling eligible
8 participants in the Lifeline and Link Up program (103-690 C (a) (1)
9 (C));

10 3) Demonstration that it will satisfy applicable consumer protection and
11 service quality standards (103-690 C (a) (1) (C) (3));

12 4) Demonstration that its local usage plan compares to the local usage
13 plan offered by the incumbent Local Exchange Carrier ("LEC") (103-
14 690 C (a) (1) (C) (4));

15 5) Affidavit which acknowledges the FCC may require the carrier to
16 provide equal access to long distance carriers (103-690 C (a) (1) (C)
17 (5));

18 6) Affidavit that it does offer or will offer the services that are supported
19 by the universal service support mechanisms by using its own facilities
20 or a combination of its own facilities and resale of another carrier's
21 services (103-690 C (a) (1) (C) (6)); and

1 7) Affidavit certifying that it does or will advertise in a media of general
2 distribution the availability of supported services, including lifeline
3 services and the applicable charges (103-690 C (a) (1) (C) (7)).

4 **Q. AFTER NEXUS COMMUNICATIONS, INC. FILED ITS APPLICATION**
5 **WITH THE COMMISSION, DID THE COMPANY PROVIDE ANY OF**
6 **THE REQUIRED AFFIDAVITS, CERTIFICATIONS,**
7 **DEMONSTRATIONS OR PLANS TO ORS?**

8 A. Yes. By way of Exhibit B to the Company's direct testimony, Nexus
9 provided an affidavit on September 25, 2008 that the carrier will: (1) provide
10 services in a timely manner throughout its designated service area (103-690
11 C(a)(1)(A)(1)); (2) provide equal access to long distance carriers (103-690
12 C(a)(1)(C)(5)); (3) offer services supported by the universal service support
13 mechanisms by using its own facilities or a combination of its own facilities and
14 resale of another carrier's services (103-690 C(a)(1)(C)(6)); and (4) advertise in
15 media of general distribution the availability of service, Lifeline services and
16 applicable charges (103-690 C(a)(1)(C)(7)).

17 **Q. DOES ORS RECOMMEND APPROVAL OF NEXUS**
18 **COMMUNICATIONS, INC. APPLICATION FOR ETC DESIGNATION?**

19 A. In general, ORS supports ETC designation in South Carolina if the
20 application complies with the Commission regulations. ORS has requested Nexus
21 to provide all information required by the Commission regulations including the
22 two-year Lifeline and Link promotional plan, demonstration that the Company

1 satisfies the consumer protection and quality service standards and demonstration
2 that the company's local usage plan compares to the local usage plans of the
3 incumbent local exchange carrier. As of today, October 9, 2008, ORS has not
4 received all the information required by the regulations. Therefore, ORS cannot
5 recommend approval of Nexus's application for ETC designation because Nexus
6 has not satisfied the ETC designation requirements listed in 26 S.C. Code Regs.
7 103-690 C. Should Nexus provide all the required information that satisfies the
8 Commission regulations prior to the hearing, ORS may change its
9 recommendation to the Commission.

10 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

11 **A.** Yes it does.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2008-275-C

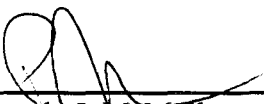
IN RE:

Application of Nexus Communications,
Incorporated for Certificate as an Eligible
Telecommunications Carrier

)
) **CERTIFICATE OF**
) **SERVICE**
)

This is to certify that I, Pamela J. McMullan, have this date served one (1) copy of the **DIRECT TESTIMONY OF JAMES M. MCDANIEL** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC, 29205



Pamela J. McMullan

October 9, 2008
Columbia, South Carolina